IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

RACHAEL A. LUTES Plaintiff, vs. MICHAEL J. ASTRUE, Commissioner of Social Security, Defendant.	Case No. 2:08 CV 310 CW-BCW **REPORT AND RECOMMENDATION** Judge Clark Waddoups Magistrate Judge Brooke C. Wells

On August 26, 2009, this case was referred to the undersigned by Judge Clark

Waddoups pursuant to 28 U.S.C. § 636(b)(1)(B). On this same date and in accordance

with standard practice, the court entered an order seeking a joint statement from the

parties regarding consent pursuant to 28 U.S.C. § 636(c) and Federal Rule 73.[1]

After reviewing the history of this matter, the court notes that on July 22, 2009,

prior to this case being referred from Judge Waddoups, Defendant filed a Motion to

Remand Pursuant to 42 U.S.C. § 405(g).[2] Defendant states that the Appeals Council

"further reviewed Plaintiff's case and determined that a remand for further proceedings is

appropriate."[3] Thus, if the court grants the motion "the Appeals Council will remand the

matter to an Administrative Law Judge (ALJ) to hold a de novo hearing and issue a new

decision regarding Plaintiff's eligibility for Supplemental Security Income."[4] "Plaintiff,

through Virginius Dabney, Esq., her counsel of record, was contacted and does not object

---

[1] Docket no. 13.
[2] Docket no. 10.
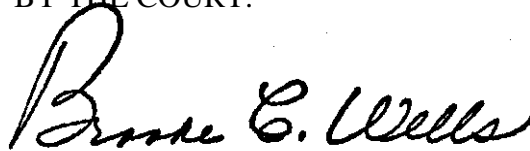[3] Motion p. 1.
[4] *Id.* at p. 1-2.

to remand of this case."[5]

Accordingly, the court RECOMMENDS that Defendant's motion to remand be GRANTED and this case be remanded to the Social Security Administration.

Copies of this report and recommendation are being mailed to all parties who are hereby notified of their right to object. Any objection must be filed within ten days after receiving this Report and Recommendation. Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 31st day of August, 2009.

BY THE COURT:

_____
Magistrate Judge Brooke Wells

---

[5] *Id.* at p. 2.